

FILED-CLERK
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

2012 NOV -5 PM 2:44
TX EASTERN-MARSHALL

UNITED STATES OF AMERICA,
ex rel. JOSHUA HARMAN

Plaintiff,

v.

TRINITY INDUSTRIES, INC.

Defendant.

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2:12-CV-00089

JUDGE RODNEY GILSTRAP

UNDER SEAL

BY _____

**UNOPPOSED EX PARTE APPLICATION BY THE UNITED STATES FOR A
SIX MONTH EXTENSION OF TIME TO MAKE AN ELECTION TO
INTERVENE**

Pursuant to 31 United States Code, § 3730(b)(3) of the False Claims Act, the United States respectfully moves the Court for an ex parte order granting an extension of time of approximately six months from November 5, 2012, to May 3, 2013, of the period during which the Government may elect to intervene in the captioned *qui tam* action, or to notify the court that it declines to do so. In addition, the Government requests that during the period of the extension, if granted, the complaint and other filings remain under seal.

The Relator, Joshua Harman, has been contacted through his attorney, and does not oppose this request.

The Court is respectfully referred to the memorandum of points and authorities submitted in support of this motion, and filed herewith.

WHEREFORE, the United States moves the Court for an ex parte order for an extension of time of approximately six months to and including May 3, 2013, in which to continue the evaluation of this case and make an election whether or not to enter the litigation, and of the time during which the complaint and other filings shall remain under seal.

Respectfully submitted,

JOHN M. BALES
United States Attorney

/s/ Kevin McClendon
KEVIN McCLENDON
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Texas State Bar # 13408620

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of November 2012, I caused copies of the United States of America's Unopposed Ex Parte Application to Extend Seal, and proposed order, to be served by first-class mail, postage prepaid, on:

Josh Maness, Attorney at Law
P.O. BOX 1785
Marshall, Texas 75671

Because this action is under seal pursuant to 31 U.S.C. §§3729-3733, the defendant has not been served with copies of the foregoing Application. Moreover, to preserve the integrity of the United States' ongoing investigation, Relator's counsel has been served with copies of the Application and proposed order, but not the Memorandum in support thereof.

/s/ Kevin McClendon
KEVIN McCLENDON

CERTIFICATE OF CONFERENCE

I hereby certify that on this 1st day of November, 2012, I have complied with the Meet and Confer requirements of the local rules as to Relator's counsel but since the case is sealed, defendants were not consulted.

/s/ Kevin McClendon
KEVIN McCLENDON